

**REPORT - PLANNING COMMISSION MEETING  
May 13, 2004**

**Project Name and Number:** Light Industrial District Modifications ZTA (PLN2004-00155)

**Applicant:** City of Fremont

**Proposal:** To consider a Zoning Text Amendment (ZTA) to the Light Industrial District (I-L) to regulate specific land uses which use hazardous materials. The ZTA will also incorporate two (2) Zoning Administrator Use Findings relating to Communications and Sheet Metal Fabrication, all within the I-L District.

**Recommended Action:** Recommend to City Council.

**Location:** Citywide

**Area:** Citywide

**Owner:** Not applicable

**Agent of Applicant:** Not applicable

**Consultant(s):** Not applicable

**Environmental Review:** This project is exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.

**Existing General Plan:** Light Industrial Designation

**Existing Zoning:** Light Industrial (I-L) District

**Existing Land Use:** Existing Industrial Uses

**Public Hearing Notice:** Public hearing notification is applicable. Because the Zoning Text Amendment is Citywide, a notice of public hearing display advertisement was delivered to *The Argus* on April 27, 2004, to be published May 1, 2004.

In addition, nine (9) public meeting notices were mailed as a courtesy to interested parties.

**Executive Summary:** A moratorium was adopted in the Light Industrial (I-L) district which: (1) included warehouses with ammonia refrigeration, and other uses involving specific quantities of highly toxic, radioactive, explosive, and unstable hazardous materials; and (2) also placed a moratorium on assembly and other uses which attract large populations in a small pocket adjacent to Auto Mall Parkway and Osgood Road. The moratorium was established to allow staff time to review and research the various uses currently allowed in the I-L district to determine if any uses should be deleted and/or modified given the increased awareness of hazardous materials associated with the light industrial land uses. Therefore, the proposal before the Planning Commission is to recommend a Zoning Text Amendment (ZTA) to amend applicable sections of Title VIII [Planning and Zoning], Chapter 2 [Zoning] of the Fremont Municipal Code, to the City Council that will modify land uses in the I-L district.

**Background and Previous Actions:** Due to the current economic climate, there are many vacancies in the City's industrial districts. Because of the available space and lower rents, property owners and tenant applicants are approaching the City with proposals for non-industrial uses within the industrial districts, such as children's amusement services, religious facilities (with child care), and nightclubs. Normally, these non-industrial users found locations in Fremont's commercial districts. However, as noted above, businesses and organizations are attracted to industrial areas due to the available space and lower rents.

As noted, there was concern about the potential incompatibility between traditional industrial uses and patrons of non-industrial users. This stems from the City's interest in maintaining a safe environment for these patrons and preserving the viability of the City's industrial districts. If too many non-industrial uses with "sensitive populations" locate in the industrial districts staff believes this may hamper the future growth of high-tech, biotech, and other traditional industrial uses. For example, when traditional industrial uses seek to locate in the City, they must prepare and submit to the Fire Department's Hazardous Materials Program either a Risk Management Plan (RMP) or Hazardous Materials Business Plan (HMBP) outlining the hazardous materials being used on site, safety controls, and other applicable information. If the RMP or HMBP discloses potential impacts to sensitive populations in the event of a hazardous materials release, such traditional industrial uses may face significant costs to meet higher building safety standards, insurance premiums increases, disclosure requirements, inventory limitations, and other long-term costs.

Furthermore, even though traditional industrial uses meet Federal and State safety requirements, recent incidents have required evacuations, street closures and persons to be "sheltered-in-place". Because most industrial uses usually have employees who are adults and work in a structured environment, they can be trained to follow emergency procedures and respond successfully during emergencies. On the other hand, uses such as children's amusement services and religious entities bring young children, older persons, and a more general population of visitors into the industrial areas. These sensitive populations are less likely to understand the risks of being in an industrial area. Further, because they are generally not employees and are in a less structured environment, they are much less likely to know how to correctly respond in the case of an evacuation or requirement to "shelter-in-place".

There was also concern with the potential impacts from such uses and recommended that the Council adopt an interim moratorium on assembly type uses while staff researched and analyzed this land use issue. On October 7, 2003 the City Council approved a moratorium ordinance (Ordinance 2515) on selected assembly and other uses which attract large and sensitive populations into the I-L district. As provided by State Law, the moratorium (Ordinance 2515) was only effective for forty-five (45) days. Therefore, on November 4, 2004, the City Council extended for six (6) months the moratorium (Ordinance 2521) in the I-L district to include warehouses with ammonia refrigeration, and other uses involving specific quantities of high toxic, radioactive, explosive, and unstable hazardous materials; **but** did not extend the moratorium on assembly and other uses which attract large populations into the I-L district, except for a small pocket adjacent to Auto Mall Parkway and Osgood Road. During the initial forty-five (45) day review period, staff determined that the moratorium on assembly uses did not need to apply to the entire I-L district, as the only area of concern (hazardous material users) lay within the Auto Mall Parkway and Osgood Road pocket. On April 6, 2004, the City Council extended the moratorium by an additional two (2) months, ending July 4, 2004. The request for the extension was required largely due to work priorities, which were aligned to allow staff to focus on the Pacific Commons Major Retail project.

A High Intensity Hazardous Materials Uses Ordinance (Ordinance 2518) was also adopted by the City Council on October 7, 2003. The Ordinance, which has been codified, regulates the type and amount of hazardous materials that an industrial user may use depending on the industrial district in which the user is located. Certain high intensity hazardous materials users are no longer permitted within the I-L district due to the potential health and safety concerns (type of chemical/volume) that these users pose to the surrounding area. The existing Ordinance also requires other users to obtain a Condition Use Permit (CUP) or Zoning Administrator Permit (ZAP) Application depending on the type and volume of hazardous materials being used. Industrial users, which use hazardous materials, are required by State and Federal law to prepare Hazardous Materials Business Plans (HMBPs) and Risk Management Plans (RMPs). The information to be provided to the City to determine if such industrial users would be subject to a CUP / ZAP requirement would probably not require special studies on the part of a business. The intent of the Ordinance is to encourage high intensity hazardous material users to locate in the General Industrial District, making the I-L district a preferred location for uses suited for being near residential and commercial areas. It is staff's expectation that the Ordinance will assist businesses in understanding where they can locate in the industrial area, and what potential discretionary permits they may need to obtain.

**Project Description & Analysis:** The proposal is to modify the Fremont Municipal Code to regulate certain land uses which use hazardous materials by changing them from "permitted uses" to "zoning administrator uses". It should also be noted that no uses are being deleted by this zoning text amendment. The ZTA would also modify the Code by moving *Day care services for children or adults (i.e., nonresidential facilities only)* and *Religious facilities* from "Conditionally

permitted uses” to “Zoning administrator uses”. Finally, the proposal inserts two (2) new land uses (*Communications and Sheet Metal Fabrication*) to the list of uses permitted with a zoning administrator’s permit, both of which have been recent zoning administrator findings. The Ordinance changes shown in Exhibit “A” are listed based on their section number of the Zoning Code in ascending order. The following is a section-by-section review of the ordinance proposed for revision.

- Definition (Section 1): The current definition of “hazardous materials” is being deleted and replaced with the same definition (more updated) found in Article 21.3. Special Provisions Applying to Miscellaneous Uses, Sec. 8-22143.3. High intensity hazardous materials users, which was adopted by City Council in October 2003. The ZTA would also insert a definition of “sheet metal fabrication” which was part of a Zoning Administrator finding.
- Light Industrial District – Purpose (Section 2): Staff recommends that the Purpose section be amended to add the following sentence... “In addition, to prohibit certain Group A, B, and C hazardous materials uses, manufacturing, and/or storage of particularly large sizes / quantities which may have off-site impacts.” By adding this sentence it would outline/highlight upfront in the purpose section that the use of certain hazardous materials are not appropriate within the I-L district. The last sentence in the I-L district currently states: “I-L districts shall not be less than two acres in size”. The amendment also proposes to delete the last sentence, as it does not speak to the purpose/intent of the I-L district. Neither the Restricted Industrial nor General Industrial districts contain such a reference to site size in the Purpose section.
- Permitted uses (Section 3): Staff have reviewed the “Permitted uses” section of the I-L district and propose to delete certain land uses (move to ZAP) due to the concern of hazardous materials involved with each of these land uses. Staff is proposing to delete the following uses: Dairy products, Laundry, cleaning and garment services, Medical and dental laboratories, Photo finishing laboratories, Landscape and horticultural services, Local trucking with storage, Refrigerated warehousing and storage, and Assembly of glass windows and distribution. The following chart outlines the above uses and some of the potential hazardous materials which are of concern:

<b>Permitted Use</b>	<b>Typical Hazardous Material</b>
Dairy products	Ammonia Refrigeration Systems
Laundry, cleaning and garment services	Combustible, corrosive or oxidizing liquids
Medical and dental laboratories	Toxic, corrosive, flammable, oxidizing liquids & solids
Photo finishing laboratories	Corrosive materials
Landscape and horticultural services	Highly toxic, toxic gases (methyl bromide) and liquids
Local trucking with storage	All classifications possible
Refrigerated warehousing and storage	Ammonia Refrigeration Systems
Assembly of glass windows and distribution	Flammable/ toxic gas (hydrogen sulfide)

Therefore, due to the typical hazardous materials used with each of the above referenced land uses, it is being proposed that they be deleted from the list of permitted uses within the I-L district.

- Conditional Uses (Section 4): The ZTA proposes to delete “Day care services for children or adults” (i.e., nonresidential facilities only) and “Religious facilities” from the Conditional use permit section and identify both as Zoning Administrator uses. This recommendation is being made since the incompatibility issue between hazardous material land uses and assembly type uses is being addressed through this ordinance, allowing both of these uses to be Zoning Administrator use permits would also simplify the permit process for these uses. Finally, the ZTA proposes the following text (duplicated within this section) be deleted: Any other service use which the planning commission finds is similar in nature, function and operation to conditional uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission as per Article 25.2 of this chapter.

- Zoning administrator uses (Section 5): As indicated earlier in the report all the uses proposed to be deleted from the Permitted uses section of the I-L district are recommended to be listed as Zoning Administrator uses through this ZTA. The uses proposed to be added to the list of Zoning Administrator uses is as follows: Dairy products, Laundry, cleaning and garment services, Medical and dental laboratories, Photo finishing laboratories, Landscape and horticultural services, Local trucking with storage, Refrigerated warehousing and storage, and Assembly of glass windows and distribution. By placing these land uses within the Zoning administrator uses section it will allow staff to further review and analyze each use to ensure that the hazardous materials being used are appropriate for the site/area proposed. At the time of application (Zoning administrator use permit) staff will require the applicant to answer questions such as: a) Does your business or process use or store any hazardous materials? b) What are the names or types and quantities of those materials? c) How are they classified? (e.g. flammable, toxic, reactive); Are they solids, liquids or gases? d) How much of each do you anticipate needing/requiring? (to start, in a year, in 3 years). Staff believes that by requiring hazardous material users to submit an application for review and approval that it will reduce the potential for land use conflict between hazardous materials users and assembly type occupancies. The ZTA also proposes to insert as new Zoning administrator uses, Communications and Sheet Metal Fabrication, both of which have been recent Zoning Administrator findings. As noted above the ZTA is also recommends that "Day care services for children or adults" (i.e., nonresidential facilities only) and "Religious facilities" be placed within the Zoning administrator list of uses. This recommendation is based on the intent of the Ordinance, which is to reduce/regulate the hazardous materials users in the I-L district.
- Use of Hazardous Materials (Section 6): The ZTA proposes to added a new section which would read as follows: "All uses permitted within the I-L district shall comply with the regulation pertaining to hazardous materials contained in Section 8-22143.3 and Chapter 12 of the Fremont Municipal Code." This section is recommended to be placed into the ordinance to ensure that there is a clear reference to the use of hazardous materials and the applicable section when reviewing new uses in the I-L district.
- High intensity hazardous materials users (Section 7): As outlined earlier in the report the intent of **Sec. 8-22143.3 High intensity hazardous materials users** of the Code is to encourage high intensity hazardous materials users to locate in the General Industrial District, making the Light Industrial district a preferred location for uses better suited for being near residential and commercial areas. Therefore, the modifications to the Tables of Permitted Hazardous Materials proposes to further regulate the Type of Facility (Exhibit "A" pg. 8) depending on the type and quantity of chemical used. Staff is recommending that a Large Storage Plant as identified under Group A Chemicals not be permitted within the I-L district due to the type and quantities of chemicals allowed within such a use. The ZTA would also amend the Tables of Permitted Hazardous Materials under the Group B and C Chemicals to not permit land uses which would fall into the Bulk Plant and Bulk Distribution category due to volumes of chemicals allowed within both of these facilities. Staff is also proposing to modify the kind of land use entitlement (Conditional Use Permit [CUP] or Zoning Administrator Use Permit [ZAP]) required for various other Types of Facilities depending on the Group of Chemical and the volume proposed. By requiring users of hazardous materials to submit a CUP or ZAP Application, it will allow Planning Commission and the Zoning Administrator to further review and analyze each project to ensure that the proposed use is appropriate for the intended site/area. This CUP and ZAP requirement will also allow additional safety features to be required (e.g. vent shut off controls; automatic warning call systems) and other features which would be applicable to the project through the conditions of approval.

The purpose of the Light Industrial District states the following: *"To provide locations for industrial uses which are generally oriented toward serving local businesses and residents and can operate in proximity to commercial and residential uses with a minimum of adverse effects. The I-L district may also include those commercial and service uses which are considered more appropriate in an industrial area...."* The modifications proposed through the ZTA meet the purpose of the I-L district by regulating those uses, which may pose an adverse effect on the adjacent land uses due to the use of hazardous materials.

- **General Plan Conformance**: The proposed zoning text amendment conforms with the following policies of the Fremont General Plan and Strategic Plan:

- General Plan Fundamental Goal 9: “A large diversified industrial and commercial base to meet the employment needs of the City’s present and future workforce”.
- General Plan Land Use Goal 1: Sufficient land to provide a diversified industrial base to meet the employment needs of the City’s present and future workforce”.
- General Plan Health and Safety Goal 6: “Minimum feasible risk to lives and property due to use, storage and transportation of hazardous materials and waste”.
- General Plan health and safety Objective 6.1: “Sufficient regulation of land use to minimize potential health and safety risks associated with current or past hazardous materials in Fremont”.
- Strategic Plan: Enduring Community Values and Core Services: “People value a feeling of safety and security within their community.” Services supporting this value include: fire prevention and suppression; and hazardous materials management.

**Environmental Analysis:** This project is exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.

**Economic Development:** Economic Development has been following land use trends and tracking the local economy and believes that allowing assembly type uses to continue to locate in the I-L district is not likely to significantly impact the ability of industrial uses to find space in Fremont. This conclusion is based on two main factors, the amount of industrial space in the I-L zone is low compared to other industrial districts, and second, there is a large amount of vacant space and property available in the other industrial districts.

**Schedule for other Industrial District Moratoriums:** The moratorium pertaining to the General Industrial and Restricted Industrial districts is in effect for twelve (12) months and staff is proposing to present a report to Planning Commission in August/September of 2004.

**Enclosures:** Exhibit “A” (Zoning Text Amendment – Light Industrial (I-L) District)

**Exhibits:** Exhibit “A” Zoning Text Amendment – Light Industrial (I-L) District

**Recommended Actions:**

1. Hold public hearing.
2. Recommend that the City Council find this project exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.
3. Recommend that the City Council find that PLN2004-00155 is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Health & Safety Chapters as enumerated within the staff report.
4. Recommend that the City Council find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment PLN2004-00155 because it assist in preventing adverse impacts associated with these uses from occurring within the Light Industrial district.
5. Recommend PLN2004-00155 to the City Council in conformance with Exhibit “A” (Zoning Text Amendment).

**Exhibit "A"**  
**Zoning Text Amendment – PLN2004-00155**  
**Light Industrial (I-L) District**  
**Citywide**

[Language proposed to be added is underlined; language proposed to be removed is ~~struck~~; language inserted for reference only is in *Italic*]

**Section 1:**

Article 1 (Definitions) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows:

**Article 1. DEFINITIONS**

**Sec. 8-2151.5. Hazardous material.**

~~[A "hazardous material" shall mean:]~~

- ~~(1) Any material listed as a hazardous and/or extremely hazardous material or hazardous and/or extremely hazardous waste in Sections 66680 or 66685 of Title 22 of the California Administrative Code, as amended, whether such material is stored or handled in waste or nonwaste form;~~
  - ~~(2) Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 Code of Federal Regulations, Section 401.15 as amended;~~
  - ~~(3) Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a Class II combustible liquid or a Class IIIA combustible liquid;~~
  - ~~(4) Any material which is listed on the list of hazardous substances pursuant to the provisions of the Hazardous Substances Information and Training Act;~~
  - ~~(5) Any material which has been found to be hazardous based upon any determination by or on behalf of the party storing this material or the manufacturer or the EPA or the California Department of Health Services, or which should have been, but was not, determined to be hazardous due to the deliberate failure of the party storing the material to comply with the requirements of the EPA and/or the Department of Health Services;~~
  - ~~(6) Any material which has been determined, through testing or other objective means, to be likely to create a significant potential or actual hazard to public health, safety or welfare.~~
  - ~~(7) The following materials shall be excluded from this definition:~~
    - ~~a. Solid elemental metals included within the purview of the definitions shall not be considered hazardous materials for purposes of this chapter unless they are stored in a friable, powdered or finely divided state.~~
    - ~~b. Hazardous materials contained solely in consumer products packaged for distribution to, and use by, the general public or commercial products used for janitorial or minor maintenance purposes such as paint thinner or wax strippers.~~
    - ~~c. Hazardous materials reasonably required for use at the work station.~~
    - ~~d. Any material where it has been demonstrated to the satisfaction of the city that the material in the quantity and/or solution stored does not present a significant actual or potential hazard to the public health, safety or welfare.~~
- (Ord. No. 1560, § 1, 6-7-83.) "Hazardous materials", categories and classification are defined in Article 2 and Appendix VI-A of the California Fire Code, as may be amended. Additional definitions are based on the definitions in Article 1 of Chapter 12 of the Fremont Municipal Code, U.S. Department of Transportation (DOT) Code of Federal Regulations (CFR), Title 49, Parts 100 to 177, and in the hazardous materials Table, 49 CFR, Part 172.101, and as the foregoing may be amended.

**Sec. 8-2162.9.7 Sheet Metal Fabrication**

"Sheet Metal fabrication" shall mean any modification, processing, pressing, stamping, alteration, powder coating, silk screening laser cutting, shearing, grinding, machining, tapping, drilling, and/or assembly of sheet metal.

## Section 2:

Article 14.1. (I-L Light Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows:

### Article 14.1. I-L Light Industrial District

#### Sec. 8-21410. Purpose

"To provide locations for industrial uses which are generally oriented toward serving local businesses and residents and can operate in proximity to commercial and residential uses with a minimum of adverse effects. In addition, to prohibit certain Group A, B, and C hazardous materials uses, manufacturing, and/or the storage of particularly large sizes / quantities which may have off-site impacts. The I-L district may also include those commercial and services-uses which are considered to be more appropriate in an industrial area". ~~I-L districts shall be not less than two acres in size.~~

## Section 3:

Section 8-21411. (Permitted uses), Article 14.1 (I-L Light Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows:

#### Sec. 8-21411. Permitted uses.

(a) *Manufacturing uses, except in (H) overlay districts:*

- (1) Bakery Products;2
- (2) Candy and other confectionery products;2
- ~~(63)~~ Curtains and draperies;2
- ~~(3)~~ ~~Dairy products;2 (ZAP)~~
- ~~(74)~~ House furnishings, except curtains and draperies.2
- ~~(45)~~ Machine shops (i.e., jobbing and repairs);2
- ~~(56)~~ Printing, publishing and allied industry;2

(b) *Services:*

- (1) Accounting, auditing, and bookkeeping;
- (2) Automobile repair, minor, including retail tire sales with installation;
- (3) Business services;2
- (4) Car detailing;1
- (5) Computer processing and data preparation and processing services;2
- ~~(246)~~ Dance studios and schools;2 except dance clubs and discotheques.1
- ~~(67)~~ Engineering, architectural and surveying services;2
- ~~(78)~~ Health clubs or spas;2
- ~~(89)~~ Judo and karate instruction;2
- ~~(9)~~ ~~Laundry, cleaning and garment services;2 (ZAP)~~
- (10) Legal services for industrial buildings and properties;
- (11) Mailing, reproduction, commercial art and photography, and stenographic services;2
- (12) Management services; management consulting services; public relations services; and facilities supporting management services except for adult correctional facilities and privately operated jails;2
- ~~(12)~~ ~~Medical and dental laboratories;2 (ZAP)~~
- (13) Medical equipment rental and leasing;2
- (14) Miscellaneous repair services;2
- ~~(2415)~~ Motion picture production and allied services;2
- ~~(2216)~~ Motion picture distribution and allied services;2
- ~~(4517)~~ Parcel packing service;2
- ~~(16)~~ ~~Photofinishing laboratories;2 (ZAP)~~
- ~~(4718)~~ Printing broker;
- ~~(2319)~~ Photography studios for automobiles;

- ~~(4820)~~ Services to dwellings and other buildings;2
- ~~(4921)~~ Sign painting and lettering shops;2
- ~~(2522)~~ Towing service, automotive without storage of vehicles;

(c) *Other:*

- (1) Assembly of purchased electronic components;
- (2) Building construction--General contractors and operative builders2 (without a corporation yard1), except in (H) overlay districts;
- (3) Cabinet shops;2
- (4) Courier services, except by air;2
- (5) General warehousing and storage,2 except the warehousing and storage of firearms;1,2,3,4
- (6) Heavy construction other than building construction--Contractors2 (without a corporation yard1), except in (H) overlay districts;
- ~~(7) Landscape and horticultural services;2--(ZAP)~~
- ~~(8) Local trucking with storage;2--(ZAP)~~
- ~~(97) Packing and crating;2~~
- ~~(10) Refrigerated warehousing and storage;2--(ZAP)~~
- ~~(478)~~ Retail catalog and mail-order houses with warehouse/distribution center and no retail outlet on site;
- ~~(459)~~ Retail sales of animal feed;
- ~~(4410)~~ Special trade contractors2 (without corporation yards1), except in (H) overlay districts;
- ~~(4811)~~ Storage of operable vehicles, including automobiles, boats, and recreational vehicles;
- (12) Taxicab operators;2
- (13) Wholesale and retail sales of goods manufactured or assembled on site, except goods related to the sales of firearms;1,2,3,4
- (14) Wholesale trade of nondurable goods2, except hazardous materials, live poultry and livestock, concrete batch plants;2 and uses requiring a zoning administrator permit or a conditional use permit;
- ~~(46) Assembly of glass windows and distribution;--(ZAP)~~
- ~~(4915)~~ Any other use which the zoning administrator finds, pursuant to the requirements set forth in Article 25.2 of this chapter, is similar in nature, function and operation to permitted uses allowed within this district.

*For reference only:*

- *All the above land uses which are being deleted from the Permitted Uses Section are proposed to be allowed under the Zoning Administrator Uses Section.*

**Section 4:**

Section 8-21414 (Conditional uses: Planning Commission as reviewing agency), Article 14.1 (I-L Light Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows:

**Sec. 8-21414. Conditional uses: Planning commission as reviewing agency.4**

The following uses may be permitted with a conditional use permit, provided all other requirements of this chapter are met. The procedure for a conditional use permit shall be as outlined in Article 25 of this chapter.

- (la) Amusement or video game arcade;1
- ~~(ab)~~ Animal shelters, including boarding kennels for small domestic pets;2
- ~~(bc)~~ Automobile repair, major;1
- ~~(c) Day care services for children or adults (i.e., nonresidential facilities only);--(ZAP)~~
- (d) Electric, gas and sanitary services2 as follows:
  - (1) Electric services;2
  - (2) Natural gas transmission and distribution;2
  - (3) Natural gas distribution;2
  - (4) Combination electric and gas, and other utility services;2



- (5) Water supply;2
- (6) Sewerage systems;2
- (7) Sanitary services, not elsewhere classified;2
- (e) Local and suburban passenger transportation,2 except in (H) overlay districts;
- (f) Public and private recreational facilities and parks;
- (g) Public and quasi-public uses1 compatible with the uses in the I-L district, except residential;
- ~~(h) Religious facilities;1,2,3,4 (ZAP)~~
- (ih) Short term residency shelter, permanent1,3 or temporary1,3, subject to the regulations set forth in Article 21.3 of this chapter;
- (ji) Warehousing and storage of firearms;1,2,3,4
- (ki) Wholesale and retail sales of goods related to the sales of firearms1,2 which have been manufactured or assembled on site;
- ~~(mk)~~ Any other service use which the planning commission finds is similar in nature, function and operation to conditional uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission as per Article 25.2 of this chapter.
- ~~(n) Any other service use which the planning commission finds is similar in nature, function and operation to conditional uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the planning commission as per Article 25.2 of this chapter. (Duplicated)~~

*For reference only*

- *The above land uses which are being deleted from the Conditional Uses Section are proposed to be allowed under the Zoning Administrator Uses Section.*

## **Section 5:**

Section 8-21415 (Zoning administrative uses), Article 14.1 (I-L Light Industrial District) of Chapter 2 (Zoning), Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows

### **Sec. 8-21415. Zoning administrator uses.**

The following uses may be permitted with a zoning administrator permit, provided all requirements of this chapter are met. The procedure for a zoning administrator permit shall be as outlined in Article 25.1 of this chapter.

- (a) Assembly of glass windows and distribution;
- ~~(ab)~~ Audio recording studio;
- ~~(bc)~~ Automotive rental and leasing, without drivers;2
- ~~(cd)~~ Automotive sales, retail, when use is indoors and sales by appointment or auction only;
- ~~(ee)~~ Blanching of nuts;
- ~~(ef)~~ Bottled and canned soft drinks and carbonated water;2
- ~~(eg)~~ Building construction--General contractors and operative builders2 (with a corporation yard1), except in (H) overlay districts;
- ~~(fh)~~ Caretaker quarters;1
- ~~(gi)~~ Carwashes;2
- (j) Communications2
- ~~(ik)~~ Corporation yard1, except in (H) overlay districts;
- (l) Dairy products;2
- (m) Day care services for children or adults (i.e., nonresidential facility only);
- ~~(n)~~ Dead storage of vehicles;
- ~~(o)~~ Eating places without alcoholic beverages1 and less than fifty seats or eating places with beer and wine1 and less than fifty seats;
- ~~(jp)~~ Food preparation facility for off-site consumption;1
- ~~(kq)~~ Food storage and distribution facility;1
- ~~(lr)~~ Heavy construction other than building construction-contractors2 (with a corporation yard1), except in (H) overlay districts;

- (s) Landscape and horticultural services;2
- (t) Laundry, cleaning and garment services;2
- (u) Local trucking with storage;2
- ~~(mv)~~ Meal service facility;1
- (w) Medical and dental laboratories;2
- (x) Photofinishing laboratories;2
- (y) Refrigerated warehousing and storage;2
- (z) Religious Facility; 1, 2, 3, 4
- ~~(aaa)~~ Research, development, and testing services;2 not involving hazardous materials;
- ~~(abb)~~ Retail trade;
  - (1) Commercial nurseries including retail nurseries, lawn and garden supply stores;1,2
  - (2) Confectionery produced for direct sales on the premises;2
  - (3) Farm implement dealers, except in (H) overlay districts;
  - (4) Fuel and ice dealers;
  - (5) Sales of large, heavy equipment and industrial machinery;
  - (6) Lumber and other building material dealers;2 including home improvement centers;1
- ~~(acc)~~ (Sheet Metal Fabrication, provided the property on which the use is located is no closer than three hundred feet from residential development and/or lands designated for residential use on the general plan. The use shall also comply with all other applicable ordinances (see Performance Standards, Sec. 8-21904.
- (dd) Small recycling collection facility;1,3,4
- ~~(ee)~~ Taxidermists;2
- ~~(eff)~~ Training of pets;2
- ~~(egg)~~ Veterinary services;2
- ~~(vhh)~~ Any other service use which the zoning administrator finds is similar in nature, function and operation to zoning administrator uses allowed within the district. The request for such a determination shall be submitted as a "finding application" to the zoning administrator pursuant to requirements set forth in Article 25.2 of this chapter. (Ord. No. 2045, § 97, 9-21-93; Ord. No. 2257, § 2, 12-2-97; Ord. No. 2407, § 20, 10-24-00.)

## Section 6

Section 8-21415.5. (Use of Hazardous Materials), Article 14.1 (I-L Light Industrial District) of Chapter 2 (Zoning) Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be added to and amended to read as follows:

### **Section 8-21415.5. Use of Hazardous Materials**

All uses permitted within the I-L district shall comply with the regulations pertaining to hazardous materials contained in Section 8-22143.3 and Chapter 12 of the Fremont Municipal Code.

## Section 7:

Article 21.3. (Special Provisions Applying To Miscellaneous Uses) of Chapter 2, Title VIII (Planning and Zoning) of the Fremont Municipal Code is proposed to be amended to read as follows:

### **Article 21.3. Special Provisions Applying to Miscellaneous Uses**

#### **Sec. 8-22143.3. High intensity hazardous materials users.**

- (f) Table of permitted hazardous materials in specific Industrial Districts.

## GROUP A CHEMICALS

- a. *Explosives and Blasting Agents*
- b. *Unstable/Reactives (Class 3 and 4)*
- c. *Pyrophoric Materials*
- d. *Radioactive Materials (Gamma Emitters)*
- e. *Class 3 and 4 Oxidizers*
- f. *Highly Toxic Materials*
- g. *Compressed Gases (Corrosive, Highly Toxic, Toxic, Pyrophoric, Unstable)*
- h. *Cryogenics (Highly Toxic, Toxic, Corrosive, Pyrophoric, Unstable)*
- i. *Organic Peroxides (Unclassified, Class I and Class II)*
- j. *Water Reactive Materials (Class 3)*

<b>Type of Facility</b>	<b>I-L Zoning District</b>
Bulk Plant	N
Bulk Distribution	N
Large User Site	N
Large Storage Plant	<del>CUP</del> N
Medium User Site	<del>ZAP</del> CUP
Medium Storage Plant	<del>ZAP</del> CUP
Small User Site	P <del>ZAP</del>
Small Storage Plant	P <del>ZAP</del>

### PERMISSIBILITY:

*P = permitted*

*CUP = Permitted only upon granting of a conditional use permit.*

*ZAP = Permitted only upon granting of a zoning administrator permit.*

*N = No, not permitted*

## GROUP B CHEMICALS

- I. *Unstable/Reactive Materials (Class 1 and 2)*
- II. *Flammable Liquids*
- III. *Flammable Solids*
- IV. *Oxidizing Materials (Class 1 and 2)*
- V. *Compressed Gases (Flammable and Oxidizing)*
- VI. *Corrosive Liquids and Solids*
- VII. *Organic Peroxide Materials (Class III, IV and V)*
- VIII. *Water Reactive Materials (Class 1 and 2)*
- IX. *Toxic Materials*
- X. *Radioactive Materials (Alpha and Beta Emitters)*
- XI. *Cryogenics (Flammable and Oxidizing)*
- XII. *Carcinogens*
- XIII. *Target Organ Toxins*

## GROUP B CHEMICALS

<i>Type of Facility</i>	<i>I-L Zoning District</i>
Bulk Plant	CUP <u>N</u>
Bulk Distribution	CUP <u>N</u>
Large User Site	ZAP <u>CUP</u>
<i>Type of Facility</i>	<i>I-L Zoning District??</i>
Large Storage Plant	ZAP <u>CUP</u>
Medium User Site	P <u>ZAP</u>
Medium Storage Plant	P <u>ZAP</u>
Small User Site	P
Small Storage Plant	P

## GROUP C CHEMICALS

- I. Combustible Liquids and Solids
- II. Compressed Gases (Inerts)
- III. Biohazardous Materials
- IV. Irritant Materials
- V. Sensitizer Materials
- VI. Cryogens (Inerts)
- VII. Other Health Hazard Materials

<i>Type of Facility</i>	<i>Zoning District</i>
Bulk Plant	CUP <u>N</u>
Bulk Distribution	CUP <u>N</u>
Large User Site	ZAP <u>CUP</u>
Large Storage Plant	ZAP <u>CUP</u>
Medium User Site	P <u>ZAP</u>
Medium Storage Plant	P <u>ZAP</u>
Small User Site	P
Small Storage Plant	P

For reference only:

- All of the Group A, B, & C Chemical types above and definitions below are included for reference only.

Definition of **hazardous materials** facilities.

- (1) Bulk plant (BP). **Hazardous materials** at the bulk plant level are manufactured, processed, blended or packaged, but are not used on-site. **Materials** are stored in large containers, railcars, tankers, drums, or cylinders. Bulk plant quantities are larger than the amount transported in or out in any single shipment.
- (2) Bulk distribution plant (BD). **Hazardous materials** at the bulk distribution plant level are collected, repackaged, blended or stored until they are transported to other facilities. **Materials** are transported to the site in unpackaged form and are transferred to storage containers by hose, pipeline or conveyor belt from railcars, tankers, large containers or drums. **Materials** are stored until transported out as finished products.

- (3) Large user site (LU). **Hazardous materials** at a large user site are used as part of on-site operations. **Materials** are stored and used in various sized containers. Container size will vary depending on the nature of the on-site operations. **Hazardous materials** are used in processes to obtain finished goods which are not **hazardous materials** which then may be used on-site or shipped out. On-site storage exceeds quantity range 5.
- (4) Large storage plant (LS). **Hazardous materials** at the storage plant level are stored until they are distributed to other facilities and exceed quantity range 5. **Materials** are warehoused in closed containers of up to six hundred sixty gallons in size. No transfer of **materials** from one container to another takes place on-site. Containers may be handled individually, palletized, or unitized for purposes of transportation. Packaging types may include cylinders, drums, boxes or portable tanks
- (5) Medium user site (MU). **Hazardous materials** at the user site are used as part of on-site operations. **Materials** are stored and used in various sized containers. On-site storage of **materials** exceeds quantity range 3 but does not exceed quantity range 5. Container size will vary depending on the nature of the on-site operations. **Hazardous materials** are used in processes to obtain finished goods which are not **hazardous materials** which then may be used on-site or shipped out.
- (6) Medium storage plant (MS). **Hazardous materials** at the medium storage plant are stored until they are distributed to other facilities and exceeds quantity range 3 but does not exceed quantity range 5. **Materials** are warehoused in closed containers not exceeding fifty-five gallons, five hundred pounds, or two hundred cubic feet at STP (standard temperature and pressure) for compressed gases. No transfer of **materials** from one container to another takes place on site. Containers may be handled individually, palletized, or unitized for purposes of transportation. Packaging types may include cylinders, drums, boxes, or bottles.
- (7) Small user site (SU). **Hazardous materials** at a small user site are used for on-site operations. This is on-site use only and quantities involved do not exceed quantity range 3.
- (8) Small storage plant (SS). **Hazardous materials** at the small storage plant site are stored until they are distributed to other facilities and do not exceed quantity range 3. **Materials** are warehoused in closed containers not exceeding fifty gallons, one hundred pounds, or two hundred cubic feet at STP for compressed gases. No transfer of **materials** from one container to another takes place on-site. Containers may be handled individually, palletized, or unitized for purposes of transportation. Packaging types may include cylinders, drums, boxes, or bottles.